

REMARKS

Claims 1-3, 5-10, and 12-14 are all the claims pending in the application. By this Amendment, Applicants cancel claims 4 and 11 without prejudice or disclaimer.

Claim Rejections

Claims 1-3 and 8-10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lin et al. (U.S. Patent No. 6,366,791, “Lin”). Claims 4-7 and 11-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lin et al. in view of Yoshino et al. (U.S. Patent No. 6,308,086, “Yoshino”). For *at least* the following reasons, Applicants respectfully traverse the rejection.

In order to expedite prosecution, Applicants amend claims 1 and 8 by this Amendment to recite, in some variation, generating ringing tones by performing a modulation processing on a tone representative of the melody data based on said tone information contained in said melody data. The Examiner concedes that Lin fails to disclose or suggest a tone setting means that generates ring tones by performing a modulation processing by using tone information contained in the melody data. In order to make up for this deficiency, the Examiner cites Yoshino and asserts that one of skill in the art would have combined Yoshino’s teaching of modulation processing with the Lin mobile station so that the set ringing tones in the musical scores could be executed as ringing tone patterns on the mobile station. Applicants respectfully disagree.

As an initial matter, Applicants point out that the Decision on Appeal mailed May 12, 2008 states that claim 4 (which is now incorporated into claim 1) does not require modulation of any tones (*see* Decision, page 7, last paragraph). Although Applicants do not acquiesce to this

interpretation of the claim, claim 1 now recites performing a modulation processing on a tone representative of the melody data as pointed out above.

Applicants point out that since the tone information is already contained in the Lin mobile station and is not fetched from a server, there would be no need to extract audio information from the fetched data and then perform modulation processing thereon as claim 1 requires. Further, even assuming *arguendo* that a skilled artisan were to draw from Yoshino, Yoshino teaches extracting frequency components from an audio signal. These frequency components correspond to a musical scale. Although Yoshino generates scales (a series of musical notes) by extracting the aforementioned frequency components from the audio signal, it does not perform any modulation processing on a tone representative of the melody data as set forth in claim 1.

As such, Yoshino alone, or in combination with Lin, does not teach or suggest all the above-noted features of claim 1 in as complete detail as set forth in the claim.

Claim 8 recites generating ring tones by performing a modulation processing on the tone based on said tone information contained in said melody data. Therefore, claim 8 is patentable for *at least* reasons similar to those discussed above with respect to claim 1.

Since claims 4 and 11 are canceled, the rejection thereto is rendered moot. Claims 2, 3, 5-7, 9, 10, and 12-14 are patentable *at least* by virtue of their dependency.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

AMENDMENT UNDER 37 C.F.R. § 1.114(c)
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Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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